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KANSAS CITY
MISSOURI

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February 28, 1997

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FEB 28 1997

Federal Communications Commission
Office of Secretary

William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

BY FAX AND U.S. MAIL

Re: Comments / MM Docket 95-176 - Closed Captioning

Dear Mr. Caton:

As provided by the Commission, I am submitting by fax the comments of the Office of City Communications, City of Kansas City, Missouri, in the Closed Captioning proceeding, MM Docket 95-176. Also, as requested by the Commission I will mail to you copies of the filing and a computer disk with the City's comments.

Sincerely,

William D. Geary
Assistant City Attorney

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEB 28 1997

Federal Communications Commission
Office of Secretary

In the Matter of)

Closed Captioning and Video Description)
of Video Programming)

Implementation of Section 305 of the)
Telecommunications Act of 1996)

Video Programming Accessibility)

MM Docket No. 95-176

COMMENTS OF
CITY OF KANSAS CITY, MISSOURI
OFFICE OF CITY COMMUNICATIONS

Office of City Communications
414 E. 12th Street, 21st Floor City Hall
Kansas City, Missouri 64105

February 26, 1997

These comments are respectfully submitted by the Office of City Communications of the City of Kansas City, Missouri, through Assistant City Attorney William Geary in MM Docket No. 95-176. By these comments the Office of City Communications respectfully suggests that whether cable television government access channels should be closed captioned is a local matter best left to a determination by each city of its local circumstances.

ISSUE

The Commission has asked for comments concerning the propriety of requiring closed captioning for public, educational and governmental access cable television channels. In its Notice of Proposed Rulemaking released January 17, 1997, as matter FCC 97-4, the Commission stated in paragraph 74:

74. Cable access programming. PEG access channel programming typically operates on a relatively small production budget. Therefore, imposing a captioning requirement may place an economic burden on the producers of such programming. However, we believe that some PEG programming is of a high public interest value because it may present important governmental, educational and community information. We request comment on whether PEG access programming should be encompassed by our general exemptions. We also seek

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comment on whether there are certain types of PEG access programming for which we should require captioning. If so, how should we distinguish between PEG access programming that should be encompassed by our general exemptions and that which should not be exempt?

BECAUSE LOCAL PROGRAMMING IS UNIQUE TO EACH CITY, THE TYPES OF PROGRAMS CLOSED CAPTIONED, SIGNED OR OTHERWISE MADE AVAILABLE SHOULD BE A LOCAL DECISION. GOVERNMENT ACCESS PROGRAMMING SHOULD BE EXEMPT BY THE COMMISSION'S GENERAL EXEMPTIONS.

The comments of the City Communications Office are specific to government access channels.

The City of Kansas City requires its current cable television operator to provide a channel for use by the City for government access purposes. Kansas City's Office of City Communications includes within its responsibilities the operation of the government access channel. All areas of production and operation are managed through municipal employees. In addition to television production, the Office of City Communications prepares written information for the public and employees.

The current scope of cablecasting is limited. Every week the legislative session of the City Council is cablecast live and then recablecast several times. Currently meetings of two of the four standing committees of the City Council are cablecast each week. A monthly discussion show featuring the work of one of the Council's committees is also prepared. An interview program allowing questions to be placed to members of the City Council, known as "Ask Your Council Member," is also produced monthly. Often news conferences or the reports of municipal commissions or study groups are cablecast live.

The immediate goal of the City is to cablecast every meeting of every standing committee of the City Council every week. To cablecast every standing committee two production crews will be required since two committees meet at the same time. Because of the cost of production and operation of the Office of City Communications, the City often cablecasts video programming prepared by other agencies, but that fall within the charge of the government access channel.

The franchise between the City and the operator includes the provision of equipment for use on the channel. When the franchise was executed the operator provided equipment valued at \$300,000. In 1997, 2000, 2003, and 2006 the operator will provide equipment valued at \$100,000. This funding is the primary source of the basic equipment used by the City. Although there is no longer any restrictions on the use of franchise fees by cities, additional funding of the Office of City Communications is set aside from the annual franchise fee paid by the cable television operator. Each

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year no less than 10% of the franchise fee is devoted specifically to the City Communications Office. That is about \$200,000.

The 1996-1997 budget for the *entire* operation is \$477,921. The Office of City Communications will request a budget of approximately \$648,000 for the 1997-1998 fiscal year beginning May 1, 1997. This increase represents personnel costs for an additional four persons to work in the television production section of the office.

The cable television operator reported on its most recent FCC Form 1240 (Updating Maximum Permitted Rates for Regulated Cable Services) over 106,000 subscribers within Kansas City. A member, who is himself deaf, of the Mayor's Committee on Disabilities estimates perhaps as many as 500 deaf or hard of hearing persons subscribe to cable television.

As its public policy, Kansas City attempts to include persons of all description within its circle of concern. Even though the number of deaf or hard of hearing persons who may be subscribers to cable television may represent as little as ¼% of the total subscribers, that number would be expected to increase with greater access to programming. However, even a doubling of the number of subscribers is only still less than 1% of the total.

The cost of closed captioning will surely vary among jurisdictions. Kansas City does not closed caption its access programming. However, a similarly sized Missouri city, St. Louis, has started closed captioning some of its meetings. Kansas City understands the actual costs of closed captioning to be based upon a fixed set-up/breakdown charge, two-hour minimum, and a different rate for additional hours. Current charges are understood to be a \$50 set-up/breakdown charge, minimum fee of \$250 for up to two hours, and \$100 per hour for each additional hour billed in increments of up to 30 minutes.

The following reflects the estimated average length of City Council legislative sessions and standing committee meetings:

Legislative session	1½ hours
Operations Committee	1½ hours
Finance Committee	1¼ hours
Plans, Zoning & Economic Development	2½ hours
Neighborhood Development	2½ hours

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Based upon the actual charges experienced in a similar city to Kansas City, the estimated average weekly cost of closed captioning the government meetings made available to the public through the government access channel is \$1,600.

Regular Public Meeting	Length	Set-up	Minimum	Extra	TOTAL
Legislative session	1½ hours	\$50	\$250	\$0	\$300
Operations Committee	1½ hours	\$50	\$250	\$0	\$300
Finance Committee	1¼ hours	\$50	\$250	\$0	\$300
Plans, Zoning & Economic Development	2½ hours	\$50	\$250	\$50	\$350
Neighborhood Development	2½ hours	\$50	\$250	\$50	\$350

The immediate impact, since only two committee meetings are cablecast each week, is an estimated weekly cost of \$950 per week or an annual cost of \$49,400 until the expanded programming is established. This is more than 10% of the entire budget of the Office of City Communications. When all committee meetings are cablecast, the estimated annual cost is \$83,200. That is almost 13% of the requested budget for the next fiscal year for all operations of the Office.

It is not the intention of the City to suggest that closed captioning may not be beneficial to the small number of persons who may be affected by a Commission rule. It is true that with government budgeting, priorities must be set. There is always the easy statement that \$83,200 could be identified in the budget of a large city. That, however, should not be the primary question.

The Commission recognizes that a cost and benefit comparison should be done. The expenditure of over \$83,200 each year represents 13% of the entire requested budget of the Office of City Communications for the next fiscal year, and almost 17.5% of the current budget. To closed caption just the City Council and committee meetings will require the elimination of significant programming.

Furthermore, a philosophical and legal issue is raised by a rule requiring government access channels to be closed captioned. Although the Unfunded Mandates Reform Act does not apply to the enforcement of laws designed to prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability, the Act excludes only "any provision in a bill, joint resolution, amendment, motion, or conference report before the Congress." See 2 U.S.C. §658a. While being sensitive to the needs of persons who cannot hear, the Commission should consider whether it has the authority to *require* — by regulation — a city to expend public money for closed captioning of government access programming.

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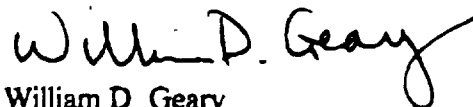
To impose that requirement on government access channels will result in the limitation of available programming. If all legislative sessions are required to be closed captioned, cities like Kansas City that do not take public testimony during legislative sessions may be required to forego making accessible important committee meetings where City staff, elected officials, and members of the public participate in public debate on issues. Choosing what is locally important cannot be efficiently or effectively done by the Commission.

Furthermore, requiring all committee hearings to be closed captioned could discourage the availability of such information to the public. If a local jurisdiction determines, in conjunction with local advocates for deaf or hard of hearing persons and a group such as the Mayor's Committee on Disabilities, that the limited funding available should go to other activities in the community, a Commission rule requiring significant closed captioning could preclude the use of local funds for activities preferred by the residents. The desire to insure that people are treated fairly should not result in unintentional — but almost certain — results where local preferences are preempted by federal authority.

Although signing may or may not be a viable alternative to closed captioning, local governments should be given the option of providing those services in response to requests by members of the community. Clearly the expense of signing, so that persons in attendance at a meeting may be informed, cannot be regularly incurred if the program is being closed captioned. Even if television monitors are placed in the legislative chambers and committee meeting rooms so that persons could read the real-time closed captioning while attending public meetings, these are additional costs incurred as a result of Commission action. These are costs not directly associated with providing access to television viewers, but the use of signing *and* real-time closed captioning could not often be incurred together.

Because of the varying circumstances in each community, the City of Kansas City, Missouri, through its Office of City Communications, respectfully submits that a federal rule mandating closed captioning for government access programming should not be adopted.

Respectfully submitted,



William D. Geary
Assistant City Attorney